


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) <div style="text-align: center; font-weight: bold;">I000-P02158US</div>	
	Application Number <div style="text-align: center; font-weight: bold;">10/033,328</div>	Filed <div style="text-align: center; font-weight: bold;">10-02-2001</div>	
	First Named Inventor <div style="text-align: center; font-weight: bold;">Patek</div>		
	Art Unit <div style="text-align: center; font-weight: bold;">2153</div>	Examiner <div style="text-align: center; font-weight: bold;">Blenman, Avalon</div>	
<p>The patent application owner requests review of the final rejection in the above-identified application.</p> <p>No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 20px;"><div style="width: 45%;"><p>I am the</p><div style="margin-bottom: 10px;"><input type="checkbox"/> applicant/inventor.</div><div style="margin-bottom: 10px;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</div><div style="margin-bottom: 10px;"><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>50,759</u></div><div><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</div></div><div style="width: 50%; text-align: center; vertical-align: top;"><div style="margin-top: 5px;">Signature</div><div style="margin-top: 5px; font-weight: bold;">Mark A Goldstein</div><div style="margin-top: 5px;">Typed or printed name</div><div style="margin-top: 5px; font-weight: bold;">805-230-1350</div><div style="margin-top: 5px;">Telephone number</div><div style="margin-top: 5px; font-weight: bold;">05/17/2006</div><div style="margin-top: 5px;">Date</div></div></div> <div style="margin-top: 10px;"><p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p></div>			
<div style="display: flex; align-items: center;"><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</div>			

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/033,328	Confirmation No.	9602
First Name Inventor	:	Patek		
Filed	:	10-02-2001		
TC/A.U.	:	2153		
Examiner	:	Blenman, Avalon		
Docket No.	:	I000-P02158US		
Customer No.	:	33356		

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Pre-Appeal Brief Request for Review

Dear Sir:

A Final Office Action (FOA) was mailed November 17, 2005. Please review the FOA and consider the following remarks in a Pre-Appeal Brief Conference. In the below remarks, we identify both the presence of clearly improper rejections based upon erroneous citation to prior art references and the failure to present essential elements required to establish *prima facie* rejections. We therefore request that this matter be returned to the assigned examiner for preparation of a new non-final Office Action or that the matter be allowed.

Claim Rejections - 35 USC § 102

The Examiner rejected claims 1-7, 8-13, 14-21, 22, 24 and 25 under 35 USC § 102(e) as anticipated by Sindhu (USP 6,493,347).

A. Claim 1

Independent claim 1 recites “A method for sending a data item from a source to selected destinations of a plurality of destinations in a switching network” in which the method comprises three steps. The first step states “examining said data item to determine a routing identifier for said data item.” The second step states “using said routing identifier as an index, accessing a data

structure comprising routing control values for said plurality of destinations.” And the third step states “concurrently transferring said data item from said source to said selected destinations based on said routing control values.” The FOA asserts that the entirety of this claim is taught by Sindhu 6:12-30.

However, Sindhu fails to teach the features recited in claim 1. The FOA asserts that the claimed routing identifier is taught by “key destination information” and that the data item is taught by a “packet key.” Review of Sindhu shows that the “key contains destination information” (Sindhu, 6:14-15) and that “the key is read from the first data block in the packet.” (Sindhu, 6:13-14) The cited portion of Sindhu states that

A route look-up engine 110 in controller 106 performs a trie based search based on the key information and returns a result which includes the output multiport associated with the destination. (Sindhu, 6:18-21)

This portion of Sindhu teaches that the output multiport associated with the destination is returned as a result of a search based on “key information.” Importantly, a single output multiport is returned. The cited portion of Sindhu teaches the one to one routing of a packet from a source to a destination. Whereas, in contrast, the claim recites “transferring said data item from said source to said selected destinations.”

That Sindhu discloses multiple multiports and broadcast packets (FOA, p. 13, para. 36), does not impact the argument initially asserted.

In addition, the FOA fails to show where Sindhu teaches routing control values as claimed. As such, a prima facie case of anticipation has not been made.

B. Claim 8

In rejecting claim 8, the FOA merges teachings from at least three unrelated and disjointed portions of Sindhu. More specifically, FIGS. 2B, 3A, 3C, 14 and 18 as well as text at cols. 6 and 17 are cited. However, the discussion at cols. 6 and 17 involve different subjects. The cited portion of

col. 6 describes some of the functionality of FIG. 2b of a router, while the cited portion of col. 17 describes FIG 14 as “a data structure associated with the notification outputted by the controller 106 to the output switch.” (Sindhu, 17:5-6) In addition, FIGS. 2B, 3A, 3C, 14 and 18 are drawings related to different embodiments of the invention some of which are unrelated to the text in cols. 6 and 17. The citations fails to provide a coherent description of those portions of Sindhu that perform the steps recited in claim 8.

In addition, the FOA fails to explain where Sindhu teaches “concurrently transferring a reference to said frame to **at least two selected output queue controllers** in accordance with said mask” as recited in claim 8 (emphasis added)

Moreover, although Sindhu teaches a mask, the mask recited in Sindhu in col. 17 fails to have the same characteristics and functionality recited in claim 8.

The FOA asserts that the output queue controllers are taught by multi-function multiports. (FOA, p. 13-14, para. 37) If this is so, then it is unclear what teaches the output queues. It appears that the FOA improperly asserts that both the queues and queue controllers are taught by the multi-function multiports. (See FOA, p. 13-14, para. 37) Confusingly, the FOA also asserts that the output queue controllers are taught by the read request queue 305 (FOA, p. 5, para. 15). The read request queue is described as being part of the input switch interface 304, that there is one for each memory bank, and that it receives read requests send by the output request processor. (Sindhu, 6:41-43; 20:15-18) Thus, it is unclear which claim limitation is to perform the functions of the output request processor of Sindhu which provides read requests to the read request queue305. (Sindhu, 6:41-43; 20:15-18). As such, the FOA fails to clearly show where Sindhu teaches the claimed “at least two selected output queue controllers”. Therefore, the FOA fails to assert a prima facie case of anticipation.

C. Claim 14

In rejecting claim 14, as in rejecting claim 8, the argument merges teachings from multiple unrelated and disjointed portions of Sindhu.

The FOA asserts that “a table having plurality of predetermined routes, said table addressed by a destination ID in said frame” is taught by three different locations in Sindhu. Yes, a routing table is taught at col 5, lines 61-62, but there is no mention in the FOA of where Sindhu teaches that the routing table has “a plurality of predetermined routes.” The FOA merely refers back to a portion of the Summary of the Invention (3:30-34) which includes no mention of the routing table.

To the extent the FOA refers to web pages at themanualpage.org and developer.novell.com (FOA, p. 14), we assert that the anticipation rejection is improper. Because the FOA is combining the teaching of Sindhu with other sources of information, an obviousness rejection should be asserted. As such, the FOA fails to properly assert a prima facie case of anticipation.

Further, the FOA asserts that “selected output queue control modules for said plurality of selected output queues, said selected output queue control modules used for copying said data to said plurality of selected output queues” as recited in claim 14 is taught by “Read requests reflect a request for cell data to be transferred from a memory bank 105 to output switch 102 for ultimate transfer to a requesting multi-function multiport 150.” (Sindhu, 12:26-29) However, this portion of Sindhu recites a requesting multi-function multiport. Claim 14 does not recite anything like a multi-function multiport that issues read requests. As such, this citation to Sindhu does not teach what it is cited for. That is, the FOA fails to assert where Sindhu teaches the claimed output queue control modules. Therefore, the FOA fails to assert a prima facie case of anticipation.

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Request dated 05-17-2006

Conclusion

Because of the deficiencies in the FOA described above, we hereby request that the FOA be withdrawn and that a new, non-final Office Action be issued in its place or that the Application be allowed.

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Respectfully submitted,



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